



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-1075]

RIN 1625-AA00

Safety Zone, Change to Enforcement Period, Patapsco River,
Northwest and Inner Harbors; Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the enforcement period of a safety zone regulation for the annual movement of the historic sloop-of-war USS CONSTELLATION. This regulation applies to a recurring event that takes place in Baltimore, MD. The safety zone regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Patapsco River, Northwest Harbor and Inner Harbor during the event.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-1075]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald L. Houck, Sector Baltimore, Waterways Management Division, U.S. Coast Guard; telephone (410) 576-2674, e-mail Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On January 9, 2013, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone, Change to Enforcement Period, Patapsco River, Northwest and Inner Harbors; Baltimore, MD" in the Federal Register (78 FR 1795). We received no

comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

Historic Ships in Baltimore is planning to conduct its "turn-around" ceremony involving the sloop-of-war USS CONSTELLATION in Baltimore, Maryland on the Thursday before Memorial Day (observed). Planned events include a three-hour, round-trip tow of the USS CONSTELLATION in the Port of Baltimore, consisting of an onboard salute with navy pattern cannon while the historic vessel is positioned off the Fort McHenry National Monument and Historic Site. Beginning at 3 p.m., the historic Sloop-of-War USS CONSTELLATION will be towed "dead ship," which means that the vessel will be underway without the benefit of mechanical or sail propulsion. The return dead ship tow of the USS CONSTELLATION to its berth in the Inner Harbor is expected to occur immediately upon execution of a tug-assisted "turn-around" of the USS CONSTELLATION on the Patapsco River near Fort McHenry. The Coast Guard anticipates a large recreational boating fleet during this event, scheduled on a late Thursday afternoon before the Memorial Day Holiday weekend in Baltimore, Maryland. Operators should expect significant vessel congestion along the planned route. In the event of inclement weather, the "turn-around" will be rescheduled for the Thursday following Memorial Day (observed).

To address safety concerns during the event, the Captain of the Port Baltimore is changing the enforcement period of a safety zone regulation for the annual movement of the historic sloop-of-war USS CONSTELLATION, conducted upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor. The change to the enforcement period of the safety zone will help the Coast Guard provide a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. This rule is needed to ensure safety on the waterway in the Port of Baltimore before, during and after the scheduled event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3)

of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this safety zone restricts vessel traffic through the affected area, the effect of this regulation will not be significant due to the limited size and duration that the regulated area will be in effect. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or transit through or within the safety zone during the enforcement period. Before the effective period, maritime

advisories will be widely available to the maritime community.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise paragraph (e) of § 165.512 as follows:

§ 165.512 Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD.

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(e) Enforcement period. This section will be enforced from 2 p.m. through 7 p.m. on the Thursday before Memorial Day (observed), and, if necessary due to inclement weather, from 2 p.m. through 7 p.m. on the Thursday following Memorial Day (observed).

Dated: February 21, 2013

Kevin C. Kiefer
Captain, U.S. Coast Guard
Captain of the Port Baltimore.

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